Amendments to the Drawings:

The attached replacement sheet (sheet 2/2) of drawings containing FIG. 4 replaces the original sheet 2/2 containing FIG. 4. The text in block 430 of FIG. 4 has been amended.

An annotated sheet is also attached showing the changes made.

Attachment: Replacement Sheet
Annotated Sheet showing changes

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. Objection to Claims 1-6, 10, 13, 34 and 37.

Claims 1-6, 10 and 13. These claims were objected to for lacking proper antecedent basis with respect to their base claims.

Applicant has amended Claims 1, 6, and10 to correct antecedent basis.

Claim 34. Claim 34 was examined as depending from Claim 33, as a lack of antecedent basis exists for a dependency from Claim 27.

Applicant has amended the claim to correct the typographical error, and to properly recite dependency from Claim 33.

Claim 37. Claim 37 was objected to for reciting "*number of packets receptions*".

Applicant has amended the claim to change the word "*packets*" to singular form.

2. Rejection of Claims 1-13 and 18-21 under 35 U.S.C. §112, second paragraph.

Examiner rejected Claims 1-13 and 18-21 under 35 U.S.C. §112.

Claim 1. Examiner considers the phrase "*indicating which packets are being sent*" as being indefinite.

Applicant has amended the claim to recite "*indicating which packets within said sequence of packets*", which more clearly defines the context of the phrase.

Claims 2-5. The phrase "*a sender*" has been amended to recite "*said sender*".

Claim 18. The phrase "*wherein maximum segment size (MSS) is modified*" is considered indefinite. Applicant has amended the claim to reflect that these modifications are performed on "*said sender*".

In response to the above amendments, the associated dependent claims should also be in condition to overcome the rejection.

3. Rejection of Claims 1-8, 10-17, 22-32, and 36-39 under 35 U.S.C. § 103(a).

Claims 1-8, 10-17, 22-32, and 36-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yoshimura et al. (U.S. Patent No. 6,125,397), hereinafter

'Yoshi', in view of Brown et al. (U.S. Patent No. 7,266,613) hereinafter 'Brown' and further in view of Samuels et al. (U.S. Appl. Publ. No. 2005/0005024 A1) hereinafter Sam.

(a) Claim 1. Independent Claim 1 is directed to a system for controlling network congestion.

In support of the rejection, Examiner considers Yoshimura (Yoshi) as teaching a system for controlling network congestion, and Brown teaching the sending of packets "*back-to-back*". Examiner admits that Yoshi in view of Brown "*does not teach explicitly indicating which packets are being sent back-to-back*". Examiner asserts that "*Sam teaches a system indicating packets based off of their status ([0146] & [0147]), in Sam's case the status indicated is packet fragmentation that implies the packets are being sent sequentially*." Examiner goes on toward supporting why the combination of Sam (Samuels) with Yoshi and Brown would be obvious.

However, a number of problems exist with support for the rejection. It should first be appreciated that the instant application operates according to different objects and operating principles than the cited references.

Although packets are often sent sequentially, or back-to-back, within conventional TCP systems, one of the problems being met in the present invention relates to controlling network congestion in response to packet trains (bursts) sent from sender to receiver. The claimed invention provides for controlling network congestion on the basis of "*explicitly indicating which packets within the sequence of packets are being sent back-to-back*" as recited in Claim 1. The cited references do not provide any teachings for this aspect of the invention.

The back-to-back aspect of the present invention which is recited in the claims is described in paragraph [0009] of the instant application: "*A data object to be sent is divided into a sequence of packets. Typically the packets are sent sequentially based on their position in the original data object. When sequential packets are communicated one after another in sequence they are referred to as being "back-to-back" packets,*

since they are sent in a single burst and the sequence is not broken by the communication of other forms of packets, such as according to retransmitting in response to packet errors. If sufficient bandwidth exists larger numbers of packets should be sent back-to-back." By contrast, NONE of the cited references are directed to control congestion in response to these packet trains.

The Yoshimura (Yoshi) reference describes conventional recovery-type congestion control as seen in its abstract: "*A data transfer apparatus and method uses recovery-type congestion control and avoidance-type congestion control. A bandwidth determination unit determines requested bandwidth for a congestion avoidance-type data transfer in accordance with control information communicated between applications prior to the congestion avoidance-type data transfer.*" The Examiner indicates Yoshimura (Yoshi) doesn't teach packets being sent back-to-back. It should be recognized that Yoshimura (Yoshi) provides no control of the extent to which packets are sent back-to-back, or of marking packets sent back-to-back.

The Brown reference describes "*Fast Dynamic Measurement of Bandwidth in a TCP Network Environment*" as found in the title of that reference. Examiner refers to back-to-back packet sending in Col. 5, lines 23-30 and Col. 6, lines 31-40.

In Col. 5, lines 23-30 of Brown a technique called "*packet-pair*" is referred to as follows: "*With packet-pair, two identical packets are sent back-to-back. The server sends a pair of packets, one immediately after the other. Both packets are identical; thus they have the same size (PS). The bandwidth is determined by dividing the packet size by the time difference in reception of each packet.*" First, it is seen that the use of "*packet-pairs*" are used as a bandwidth measurement with two identical packets being used. These marker packets are identical and identifiable, thus the packet-pair does not comprise packets within a sequence of packets as recited in Applicant claims.

In Col. 6, lines 31-40 of Brown, the "*packet-pair*" is expanded with multiple packets being sent and speed calculated for each. Again the discussion is about estimating bandwidth in response to speed determinations of the packets.

Brown provides no teaching relating to determining which packets are sent back-to-back or more particularly of explicitly marking those packets as being back-to-back.

Towards overcoming the deficiencies with these references, the Samuels (Sam) reference is combined with Yoshimura and Brown. The Samuels reference is a "*Method of Determining Path Maximum Transmission Unit*" (PMTU), or path MTU, as recited in the title of the invention. Samuels discusses the use of a performance-enhancing proxy (PEP) (paragraph [0014]) with the object of the invention described in paragraph [0027] of the Samuels reference, as: "*Consequently, a new method of deploying PEPs is required to efficiently integrate them into a network. These PEPs must supply algorithms that remove the performance limitations inherent in TCP implementations.*" The Summary of the Samuels invention in paragraph [0028] describes the invention as: "*A method of detecting the maximum transmission unit of a path between two performance enhancing proxies is disclosed.*" The summary concludes by describing the mechanism by which the value of PMTU is altered: "*Upon arrival, the downstream proxy determines if fragmentation of the packets has occurred. The downstream proxy notifies the upstream proxy of the determination. The upstream proxy uses the notification from the downstream proxy to retain, revert or alter the new estimated PMTU.*"

The cited paragraphs [0146] and [0147] within Samuels are consonant with the above in describing notification of the upstream PEP in response to detecting "*fragmentation*". Paragraph [0146] states: "*The receiving PEP observes the arrival of packets. If the receiver detects the arrival of a fragmented packet, then the receiver reports back to the sender that fragmentation is occurring, by marking the ACK packet that is generated for the received packet.*" (emphasis added) In view of the above it is clear that fragmentation is not related to disruptions in the back-to-back train of packets, but is in response to receipt of a packet fragment (an error) instead of a whole packet. This is why there is no mechanism described for detecting the "fragments", because receivers are already configured to determine if received packets are whole and correct.

This understanding is borne out in other parts of Samuels as follows.

In paragraph [0112] Samuels describes the meaning of "*fragmentation*": "*As described above, TCP performance is proportional to packet size. Thus increasing packet sizes improves performance unless it causes substantially increased packet loss rates or other nonlinear effects, like IP fragmentation. In general, wired media (such as copper or fiber optics) have extremely low bit-error rates, low enough that these can be ignored. For these media, it is advantageous for the packet size to be the maximum possible before fragmentation occurs (the maximum packet size is limited by the protocols of the underlying transmission media).*"

It can be recognized from the above that Samuels is not discussing anything relating to detecting whether packets are sent back-to-back, but of communicating the receipt of packet fragments (errors) by the receiver back to the sender to determine the maximum transmission unit (MTU) value to be used to size the packets. It will be readily appreciated that determining whether one has a partial packet is entirely different than detecting the extent to which intact packets are being received sequentially "back-to-back" as they were sent out without delays between these packets.

More pointedly, Samuels does not teach any "*means for explicitly indicating which packets within said sequence of packets are being sent back-to-back*". Thus, combining Samuels with the other references still provides no teaching for aspects of the invention recited in the claim.

Accordingly, as the Samuels reference in combination with the Yoshimura and Brown and what is known to one of ordinary skill in the art does not result in the invention as recited in Claim 1, wherein a lack of support exists for the rejection of Claim 1.

Applicant respectfully requests that the rejection of Claim 1, and the claims which depend therefrom, be withdrawn.

(b) Claim 14. Independent Claim 14 is directed to a system for controlling network congestion.

Support for the rejection follows that which was given in regard to Claim 1 discussed above.

As discussed in relation to Claim 1, the elements of Claim 14 describe "*marking packets, in a sender, to explicitly indicate if they are sent back-to-back*". Examiner admits that Yoshimura and Brown provide no such teachings, wherein the teaching of detecting "*fragments*" by Samuels is relied upon.

However, as already discussed in relation to Claim 1, Samuels does not explicitly mark any packets, prior to sending, with an indication of whether they are being sent back-to-back. In addition, the detection of fragmentation by Samuels has been shown to detect packet fragments which does not comport to indicating the extent to which packets are being sent back-to-back.

Accordingly, the combination of the cited references in view of what is known in the art does not provide teaching, suggestion, or motivation for the aspects of the invention as recited in Claim 14. Therefore, the Applicant respectfully requests that the rejection of Claim 14, and the claims that depend therefrom, be withdrawn.

(c) Claim 26. Independent Claim 26 is directed to a system for controlling network congestion.

Support for the rejection follows that which was given in regard to Claims 1 and 14 discussed in prior sections.

In like manner to the traversal of the rejection of Claims 1 and 14, the elements of Claim 26 similarly describe "*estimating network bandwidth in response to receipt of explicit indications of back-to-back packets or utilizing back-to-back packet estimations*". Examiner admits that Yoshimura and Brown provide no such teachings, wherein the teachings of detecting "fragments" within Samuels are relied upon.

However, as already discussed in relation to Claims 1 and 14, Samuels neither explicitly marks any packets, nor does it determine back-to-back packet estimations, as

required by the claim. As discussed already, the detection of fragmentation by Samuels has been seen to detect packet fragments which do not relate to the extent to which packets are sent back-to-back, but only that the packet lengths are excessive.

Furthermore, Claim 26 recites "*controlling the length of packet trains transmitted by the sender in response to altering the rate at which receipt acknowledgements (ACKs) are communicated from the receiver to said sender as based on estimated network bandwidth*" for which no comparable teachings from the references are put forth in support of the rejection. It should be appreciated that none of the references provide any mechanism whatsoever for controlling the length of packet trains, but only for controlling the size of the packets being sent, which of course are two distinct forms of network control.

Accordingly, the combination of the cited references in view of what is known in the art does not provide teachings, suggestion, or motivation for the aspects of the invention as recited in Claim 26. Therefore, the Applicant respectfully requests that the rejection of Claim 26, and the claims that depend therefrom, be withdrawn.

Claims 2-13, 15-25, and 27-39. Claims 2-13, 15-25, and 27-39 depend from claims whose patentability has been demonstrated, thus these dependent claims should be considered *a fortiori* allowable in view of their respective base claims.

However, a number of these claims provide additional distinctions which have not been fully appreciated in the Office Action. The following claims are discussed by way of example.

Claim 2. In support of the rejection the sequence numbering described in paragraph [0148] of Samuels is relied upon in conjunction with the teachings of Yoshimura and Brown.

Yoshimura and Brown clearly provide no teaching in relation to estimating back-to-back packets. However, the teachings of paragraph [0148] of Samuels also lacks such teaching and provides further support that the operating principles of Samuels does not relate to registering and controlling packet trains at all, but with reducing

packet sizes in response to receipt of packet fragments. A portion of paragraph [0148] is as follows.

> *"The active PMTU discovery algorithm operates by increasing the MTU of transmitted packets until a fragmentation indication is received, signaling that the PMTU has been exceeded. Because of the time lag between the sending of a larger packet and the reception of the ACK for it, as well as the use of cumulative ACKs, the PMTU discovery algorithm operates with imprecise information. In a preferred embodiment, the PMTU discovery algorithm increases the size of packets slowly, so as to reduce the uncertainty. The PMTU for a connection is increased by a few percent once for every RTT that elapses without a fragmentation indication. In a preferred embodiment, the sequence number of the first packet with an increased RTT is recorded. If that sequence number is ACKed without a fragmentation indication (either specifically or cumulatively), then the algorithm assumes that the PMTU for that packet is acceptable and increases it, again recording the sequence number." (emphasis added)*

It is apparent that no *"means for estimating the number of back-to-back packets received within a receiver from said sender and utilizing that information in conjunction with the explicit back-to-back packet information*" is provided by the Samuels reference. RTT is the Round-Trip Time estimation for which each sequence of packets is timestamped. This mechanism can not be equated with an explicit marking that packets within a sequence of packets were sent back-to-back.

Therefore, support is lacking for the rejection of dependent Claim 2, and the rejection should be withdrawn.

Claim 4. In support of the rejection it is asserted that the tracking of sequence numbers by Samuels comports to this aspect of the invention, while aspects of Yoshimura and Brown are not discussed.

As has been discussed, Samuels does not teach the use of an explicit back-to-back indication from a sender. Thereby it makes no sense to assert that a back-to-back estimate is used "*for checking the presence and validity of explicit back-to-back indications from the sender*", as recited in Claim 4.

Therefore, support is lacking for the rejection of dependent Claim 4, and the

rejection should be withdrawn.

Claim 8. In support of the rejection, the modulating of header information by Samuels is asserted as recited in paragraphs [0147] and [0148].

Yoshimura and Brown are not brought forth in support as they clearly provide no teaching in relation to setting of header bits based on back-to-back status.

However, the Samuels reference also lacks teaching which comports to this aspect of the invention. The cited paragraphs describe marking the ACK packet in the receiver in response to detecting packet fragments.

Claim 8, is directed at marking of packet header bits indicating back-to-back status prior to transmission of those packets.

Therefore, as these have no correlation to that which is asserted for the cited references, then the rejection of Claim 8 should be withdrawn.

Claim 13. Similar to Claims 8 and 9, none of the cited references describe "*marking packets according to whether or not they are being sent back-to-back*". Obviously, Yoshimura and Brown provide no such teachings. The cited Samuels reference detects the receipt of packet fragments and communicates this back to the sender to control MTU value, nothing is put forth for marking packets being sent in relation to whether they are being sent back-to-back.

Therefore, these references provide no teaching, suggestion or motivation, either separately, or in combination with each other or what is known in the art, wherein they do not support the obviousness rejection. Applicant respectfully requests that the rejection of Claim 13 be withdrawn.

Many of the remaining dependent claims suffer from shortcomings similar to those brought out above. In addition, all these dependent claims are progeny of claims whose patentability has been demonstrated wherein they should be considered *a fortiori* allowable.

4. Rejection of Claims 9, 18-21 and 33-35 under 35 U.S.C. § 103(a).

Claims 9, 18-21 and 33-35 were rejected under 35 U.S.C. § 103(a) as being

unpatentable over Yoshi, Brown and Samuels as applied to Claims 1, 14 and 27 above, and further in view of Huang et al. (U.S. Appl. Publ. No. 2003/0103453 A1) hereinafter Huang.

Claims 9, 18-21 and 33-35 depend from claims whose patentability has been demonstrated, thus these dependent claims should be considered *a fortiori* allowable in view of their respective base claims.

However, as each of these claims provide additional distinctions which have not been fully appreciated in the Office Action, they are discussed in the following.

Claim 9. Similar to Claim 8 discussed previously, Claim 9 recites a mechanism using modulation of the MSS for explicitly indicating back-to-back status of a packet prior to its transmission. Yoshimura and Brown clearly provide no teachings of explicit back-to-back packet indications. In addition, it has been shown that the detection of packet fragments within a receiver by the Samuels reference, also does not comport to indicating back-to-back status prior to transmission.

The rejection asserts that Samuels "*does not disclose modulating the setting of the maximum segment size (MSS) for indicating back-to-back status of packets being transmitted*". In putting forth the combination with Huang it is asserted that "*Huang teaches modulating the setting of the maximum segment size (MSS) for indicating back-to-back status of packets being transmitted [0068].*"

However, Applicant finds no support of this assertion in paragraph [0068] of Huang, nor can applicant find support anywhere in the Huang reference regarding explicitly indicating back-to-back packets being transmitted, such as recited within the base claims of the instant application.

Instead the Huang reference is directed to a time-division queue rate control scheme as seen in the Abstract of that invention, a portion of which reads as follows.

> "*The TDQ-RCS according to the present invention can rapidly determine departure time of an arrival packet, add the arrival packet into the time division queue to which it belongs according to the departure time, and then output the packet on schedule.*"

It will be seen that the above discusses registering departure time and not whether packets are sent back-to-back - thus by definition it is not an explicit reference. Although no discussion was found in Huang for using these timestamps to determine the back-to-back relationship of packets, the background of the instant application in paragraph [0020]-[0021] discusses shortcomings of timestamp evaluation approaches which attempt to do so.

In any case the Huang reference can not be said to provide the explicit marking of back-to-back packets being transmitted. One can see from paragraph [0068] that Huang partitions upstream and downstream traffic.

> *"According to the present invention, a packet transmitted by the sender in the low rate direction will be partitioned into a series of smaller packets, if the payload size of the packet is larger than the legal rate predetermined for said traffic stream based on said QoS information. To achieve such partition, an optional header, Maximum Segment Size (MSS), of the TCP is employed in the present invention. The MSS is to set the largest payload size of the TCP traffic stream."*

In relation to the above it will be seen that the Huang reference, considered either separately, or in combination with the other cited references and what is known in the art, could not provide proper support for an obviousness rejection of these dependent claims.

Therefore, the rejection of Claim 9 should be withdrawn.

Claim 18. Claim 18 contains a recitation of using the changes in MSS to explicitly mark back-to-back packets being sent in the manner of Claim 9 above, but directed to base Claim 14.

Therefore, the rejection of Claim 18 should be withdrawn.

Claim 19. Dependent Claim 19 is rejected on the basis of changing packet sizes to "*improve the data for corresponding to available bandwidth*". However, this characterization misses critical distinctions brought out in Claim 19 and its parent claim. In particular modulation of packet size is used as recited in Claim 19 as the explicit

indication that packets are being sent back-to-back. The cited references change packet length to accomplish direct objectives in response to fragmentation (Samuels) or bidirectional packet flow (Huang), yet there is no support given from these references that of modulating the MSS based on each packet being back-to-back with another packet prior to sending. Thus, in the claims of the instant application packet size was not changed as the object, or goal, but as an indication, or flag, which is used for allowing the length of packet trains to be increased.

Therefore, the rejection of Claim 19 should be withdrawn.

Claims 20-21. Claims 20-21 contain further definitions of how the MSS is modulated as an explicit indicator of a packet that is sent back-to-back, and thus these claims are not obvious for the same and additional reasons as given in regard to Claim 19.

Therefore, the rejection of Claims 20-21 should be withdrawn.

Claims 33-35. Claims 33-35 depend from independent Claim 27, and recite modulation of the MSS as an explicit indicator of a packet that is sent back-to-back, in a manner as recited in dependent Claim 18, which depended from independent Claim 14. For those same reasons, Claims 33-35 are not obviated by the teachings of Huang, in combination with Samuels, Brown, Yoshimura, and what is known in the art.

Therefore, the rejection of Claims 33-35 should be withdrawn.

Therefore, each of the above dependent claims should be considered *a fortiori* allowable in view of dependence from a base claim shown to be non-obvious, while each dependent claim provides further grounds for non-obviousness in relation to all the cited references, including Huang, and what is known in the art.

5. Amendment of Specification.

Examiner has objected to specification informalities. Applicant has amended the specification to assure definitions of MTU, RMSS, OSI, and M are properly rendered. Applicant has also amended the specification to correct the typographical errors in paragraphs [0064] and [0067].

The Applicant has amended the specification to correct these typographical errors and apologizes for any inconvenience which this may have caused the Examiner.

Paragraph [0009] has been amended to assure the definition of MTU is in the proper place and that RMSS is defined. Support for these changes is found in paragraph [0012] for "*maximum transmission units (MTU)*" and what is known in the art as shown by the specification "*RFC 2581 - TCP Congestion Control*" for the term "RMSS" as the "*Receiver Maximum Segment Size (RMSS)*" which is the size of the largest segment that the receiver is willing to accept.

Paragraph [0010] has been amended to spell out the acronym OSI as "*open system interconnection*" as is known to one of ordinary skill in the TCP arts, and found throughout the web, including www.tcpipguide.com.

Paragraph [0013] has been amended to correct a typographical error by deleting the term *(MTU)*, which was duplicated earlier in this sentence of the paragraph.

Paragraph [0038] has been amended to recite the value "*m*" in the phrase "*m to be*" alongside its definition as length of packet pairs/trains.

Paragraph [0059] has been amended to recite the definition of value "*m*" alongside its recitation.

Paragraph [0064] has been amended to correct a typographical error from the phrase "*packing marking*" to "*packet marking*".

Paragraph [0067] has been amended to correct a typographical error in eliminating the letter "*a*" from the phrase "*uses [[a]] (MSS - n) bytes*".

Paragraph [0079] has been amended to recite the definition "*packet train length*" alongside its recitation of value "*m*".

6. Amendment of Drawings.

Block 430 of FIG. 4 has been amended to recite a definition for value *m* in accord with the objections of the Examiner. In addition, the value of x in block 430 to imply any desired value, was not a variable used in the specification, and thus the recitation of "*m=x*" was removed from Block 430.

Support for the definition of *m* is found throughout the specification, including paragraphs [0038], [0059], [0078], [0079], and so forth.

7. Amendments to Claims 1-5, 10, 13-14, 18, 24, 27, and 37.

Claim 1. Independent Claim 1 has been amended as follows. The first element has been amended to recite "*communicating a sequence of packets*", and the last elements amended to recite "*which packets within said sequence of packets*"; the basis for both of which should already be well recognized. A second claim element has been included to recite: "*wherein back-to-back packets are packets which are communicated one after another within the sequence of packets*". Support for this aspect is found throughout the specification, including paragraphs [0008] and [0009]. The phrase "*by a receiver*" was added to the last claim element to recite which device is associated with the "*receipt*" of the packets, which again should be well recognized.

Claims 2-5. Dependent Claims 2-5 have been amended to correct a typographical error, replacing "*a*" with "*the*". Claim 2 also replaces the phrase "*within a*" to "*by the*", to improve readability; and replaces the term "*information*" with "*indications*" to provide a better match with the language of the base claim.

Claim 10. Dependent Claim 10 has been amended to correct a typographical error, replacing "*the*" with "*a*", as well as deleting the term "*based*" which is redundant with respect to the following phrase "*in response*". In addition, the word "*value*" is inserted preceding an instance of variable "*m*" to improve readability.

Claim 13. Dependent Claim 13 has been amended to improve readability and to match the language of its respective base claim. The phrase "*which explicitly indicates back-to-back packets and sets congestion control parameters*", has been amended to better fit the base claim language as "*for explicitly indicating back-to-back packets and setting congestion control parameters*". One claim element was modifies as "explicitly marking packets, in the sender," to more clearly make reference to those aspects in the base claim.

Claim 14. Independent Claim 14 has been amended to improve readability. The fourth claim element was amended to recite the device performing the packet marking as: "*marking packets, in a sender, to explicitly indicate if they are sent*", which is clear from the context of the claim, and recited throughout the specification. In addition the phrase "*to generate network bandwidth estimates*" has been added to assure readers that network bandwidth estimates are the result of "*estimating network bandwidth*" as recited in the first part of the claim element.

Claim 18. Dependent Claim 18 has been amended to improve readability by inserting "*of said sender*" to describe which device marks the packets prior to sending. Again this is seen from context, and found throughout the specification.

Claim 24. Dependent Claim 24 has been amended to replace the phrase "*a sender*" with "*the sender*", to improve apparent antecedent basis, and to replace "s*aid sender*" with "*the sender*", to improve consistency of expression.

Claim 27. Independent Claim 27 has been amended to improve readability. The marking of each back-to-back packet is recited as "*from a sender*" to a receiver. The claim aspect reciting estimating bandwidth has been amended to move the word packets to improve readability. And the phrase "*a sender*" has been replaced with "*the sender*".

Claim 37. Dependent Claim 37 has been amended to correct a typographical error, replacing "*packets*" with "*packet*".

8. Amendments Made Without Prejudice or Estoppel.

Notwithstanding the amendments made and accompanying traversing remarks provided above, Applicant has made these amendments in order to expedite allowance of the currently pending subject matter. However, Applicant does not acquiesce in the original ground for rejection with respect to the original form of these claims. These amendments have been made without any prejudice, waiver, or estoppel, and without forfeiture or dedication to the public, with respect to the original subject matter of the claims as originally filed or in their form immediately preceding these amendments.

Applicant reserves the right to pursue the original scope of these claims in the future, such as through continuation practice, for example.

9. Extension of time under 37 CFR 1.136(a).

A petition is enclosed for a one month extension as described in 37 CFR 1.136(a); an appropriate fee is enclosed.

10. Conclusion.

Based on the foregoing, Applicant respectfully requests that the various grounds for rejection in the Office Action be reconsidered and withdrawn with respect to the presently amended form of the claims, and that a Notice of Allowance be issued for the present application to pass to issuance.

In the event any further matters remain at issue with respect to the present application, Applicant respectfully requests that the Examiner please contact the undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this application.

Date: March 4, 2008

Respectfully submitted,

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Attachments: Replacement Drawing Sheet 2 (FIG. 4)
Annotated Drawing Sheet 2 (redline markup of FIG. 4)

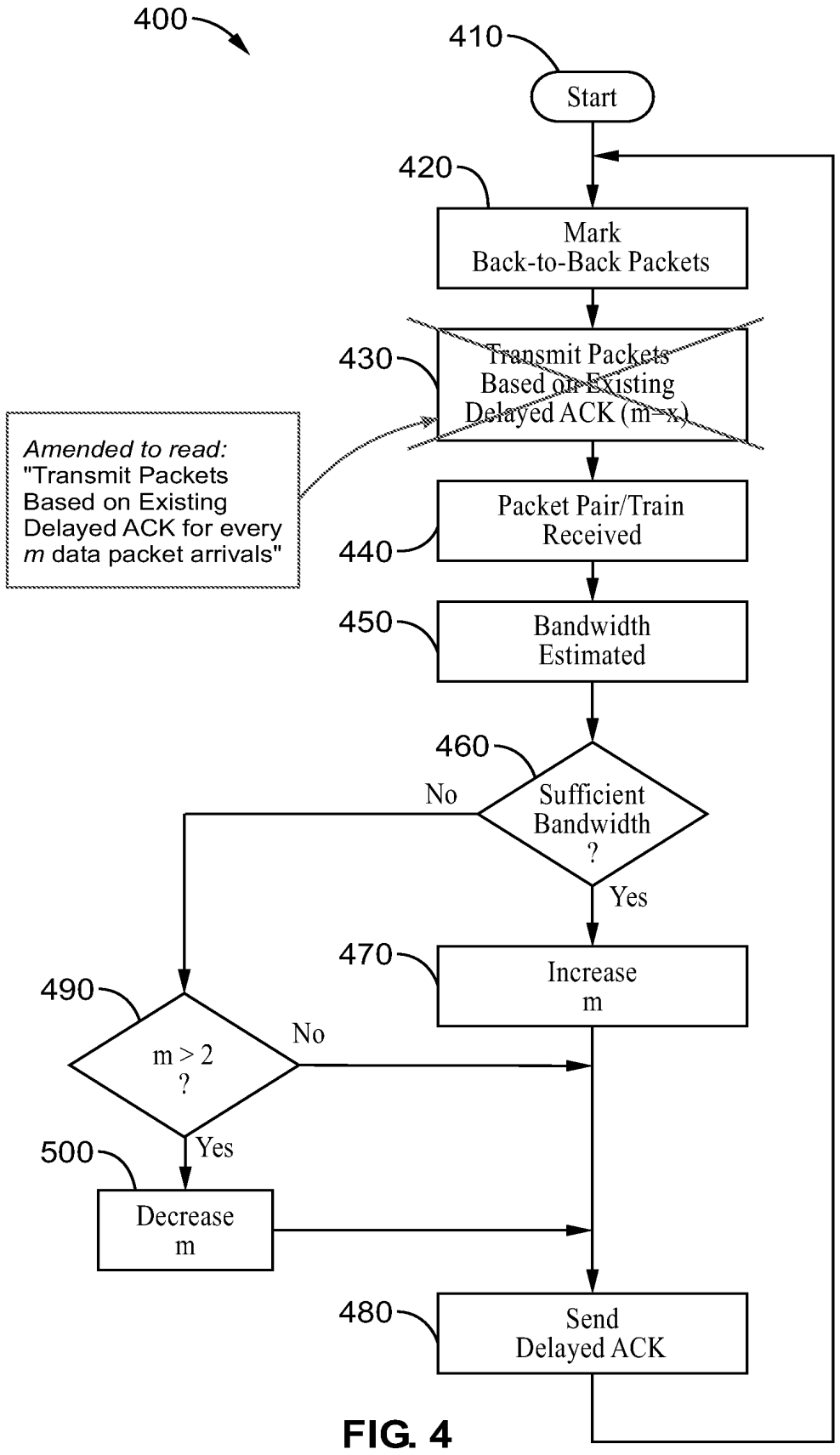
400
410
Start
420
Mark
Back-to-Back Packets
430
Transmit Packets
Based on Existing
Delayed ACK (m=x)
Amended to read:
"Transmit Packets
Based on Existing
Delayed ACK for every
m data packet arrivals"
440
Packet Pair/Train
Received
450
Bandwidth
Estimated
460
Sufficient
Bandwidth
?
No
Yes
470
Increase
m
490
m > 2
?
No
Yes
500
Decrease
m
480
Send
Delayed ACK

FIG. 4